IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 327 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE J.R.VORA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VIKRAMBHAI NARENDRABHAI DAVE
Versus
THE STATE OF GUJARAT & ANR

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Appearance :
MR KIRTIDEV R DAVE for Applicant
MS DS PANDIT for Respondent No.1
MR DR CHAUHAN for Respondent No.2

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CORAM : HONOURABLE MR.JUSTICE J.R.VORA

Date : 02/12/2005

ORAL JUDGMENT

1.Learned advocate Mr.D.R.Chauhan places on record vakalatnama on behalf of the respondent No.2 – Shaileshbhai Babubhai Talati, who is present in the Court. Learned advocate Mr.Chauhan stated that vakalatnama is unstamped and, therefore, he is permitted to affix the stamps on the said vakalatnama immediately. Learned advocate Mr.K.R.Dave for the applicant and learned advocate Mr.D.R.Chauhan for the respondent No.2, both places on record compromise arrived at between applicant – accused and respondent No.2 – original complainant. Learned APP Ms.D.S.Pandit for the respondent No.1 – State of Gujarat is present.

2.Learned advocate Mr.K.R.Dave for the applicant as well as learned advocate Mr.D.R.Chauhan for respondent No.2 make the statements that the applicant – original accused and respondent No.2 – original complainant have compromised in respect of offence punishable under Section 138

of the Negotiable Instruments Act in Criminal Case No.5485 of 2000 of the Court of Judicial Magistrate (F.C.), at Nadiad. Both the learned advocates further state that the complainant as well as accused, both have signed written compromise placed on the record. The statements of both the learned advocates are recorded. The original compromise as submitted on record, is taken on record and compromise is recorded.

3. Consequently, the judgment and order of conviction passed by the learned 2nd Joint Judicial Magistrate (F.C.), at Nadiad in Criminal Case No.5485 of 2000 convicting and sentencing the present applicant as well as the judgment and order of learned Additional Sessions Judge, 8th Fast Track Court, at Nadiad in Criminal Appeal No.87 of 2003 confirming the order of conviction passed by the learned 2nd Joint Judicial Magistrate (F.C.), Nadiad, both are set aside and the present applicant i.e. Original accused is acquitted of the charges

levelled against him under Section 138 of the Negotiable Instruments Act in Criminal Case No.5485 of 2000 of the Court of learned 2nd Joint Judicial Magistrate (F.C.), Nadiad.

4. The amount of Rs.20,000/- deposited by the applicant in this Court in pursuance of the order passed by this Court on 24th October, 2005 is directed to be paid to the original complainant – Shaileshbhai Babubhai Talati, respondent No.2 herein by the Registry of this Court. It is further directed that an amount of fine of Rs.5,000/- deposited by the present applicant before the trial Court at Nadiad be refunded to the applicant – Vikrambhai Narendrabhai Dave by the trial Court.

5. In view of the above, this Criminal Revision Application stands disposed of. Rule is made absolute to the above extent.

[J. R. VORA,J.]

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